UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Ex parte M. DAVID BOOTHE

Appeal No. 2004-2282
Application No. 09/989,555

ON BRIEF

Before MCQUADE, NASE and BAHR, Administrative Patent Judges.

BAHR, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from the examiner's final rejection of claims 9-11, which are all of the claims pending in this application.

We AFFIRM.

BACKGROUND

The appellant's invention relates to a door latch for assisting physically impaired individuals having prosthetic hands or arms or who are otherwise incapable of gripping

objects such as door knobs, the door latch being provided with a loop arranged and designed so that a prosthetic arm, hand, finger or other object can be put through the loop to enable the latch to be pulled from an open position to a closed position and vice versa. A copy of the claims under appeal is set forth in the appendix to the appellant's brief.

The examiner relied upon the following prior art references in rejecting the appealed claims:

Coultaus	357,116	Feb. 1, 1887
Lacey	426,389	Apr. 22, 1890
Recchione	3,078,917	Feb. 26, 1963
Finch et al. (Finch)	4,930,563	Jun. 5, 1990
Dollman et al. (Dollman)	6,076,867	Jun. 20, 2000

The following rejections are before us for review.

Claims 9-11 stand rejected under 35 U.S.C. § 103 as being unpatentable over Recchione in view of any of Lacey, Dollman and Coultaus.

Claims 9-11 stand rejected under 35 U.S.C. § 103 as being unpatentable over Finch in view of any of Lacey, Dollman and Coultaus.

Rather than reiterate the conflicting viewpoints advanced by the examiner and the appellant regarding the above-noted rejections, we make reference to the answer (mailed May 20, 2004) for the examiner's complete reasoning in support of the

rejections and to the brief (filed March 8, 2004) for the appellant's arguments thereagainst.

OPINION

Appellant's brief states on page 3 that claims 9 and 10 stand or fall together. Thus, in accordance with 37 CFR § 41.37(c)(vii), we select claim 9 as the representative claim to decide the appeal, with claim 10 standing or falling therewith. Although appellant states on page 3 of the brief that claim 11 stands alone, we note that appellant has not argued separately the patentability of claim 11 apart from claims 9 and 10. Therefore, claim 11 shall stand or fall with representative claim 9 (see In re Young, 927 F.2d 588, 590, 18 USPQ2d 1089, 1091 (Fed. Cir. 1991); In re Wood, 582 F.2d 638, 642, 199 USPQ 137, 140 (CCPA 1978)).

In reaching our decision in this appeal, we have given careful consideration to the appellant's specification and claims, to the applied prior art references, and to the respective positions articulated by the appellant and the examiner. As a consequence of our review, we make the determinations which follow.

Recchione discloses a rolling door or rigid curtain 22 arranged to roll up and down in an opening, flanked by end posts 30, in one side of a walled enclosure 21, the curtain being provided with a springless lock assembly including a slide bolt 118 slidably received within a housing 115 that is recessed within the rear end of the bottom

lock bar 100 of the curtain 22. The slide bolt has one end of a lock bar 119 secured thereto. In response to sliding movement of the bolt 118, the lock bar 119 can be selectively moved into and out of an aligned opening 124 in the lowermost portion of each end post 30.

Finch discloses a roll-up or curtain door 120 having mounted thereon a slide bolt assembly consisting of a slide bolt support member 130 which is mounted to the outside of the door 120 with bolts. A slide bolt 132 is slidably mounted in the slide bolt support member 130 and has a tongue 134 which extends toward the side of the door 120. When the slide bolt 132 is in the open position, the tongue 134 is retracted into the slide bolt support member 130, allowing the door 120 to be opened or closed freely. When the slide bolt 132 is in the closed position, the tongue 134 extends out from the slide bolt support member 130 beyond the edge of the door 120 and is received in an aperture 136 in the guide track 20.

Appellant and the examiner appear to be in agreement that each of the primary references, Recchione and Finch, applied by the examiner, discloses the subject matter recited in claim 9 with the exception of a hole provided in the latch (slide bolt 118 of Recchione or slide bolt 132 of Finch) with a loop disposed directly through the hole, the loop being arranged and designed so that a disabled person can put a prosthetic arm, or hand or finger or other object through the loop and pull the latch from an open

position to a closed position and vice versa. The examiner, however, has taken the position that the provision of a loop through a hole in the slide bolt of either Recchione or Finch to assist in moving the latch from a closed position to an open position would have been suggested by any of Lacey, Dollman and Coultaus.

One of ordinary skill in the art would have understood that the rings or loops disclosed by Lacey, Dollman and Coultaus provide a convenient vehicle for applying a pulling force to the latch (see, for example, column 3, lines 42-45, of Dollman) and would have recognized the advantage of such a convenient vehicle for pulling the slide bolt of either Recchione or Finch to the open or closed position. We fully appreciate appellant's argument (brief, pages 5-8) that the secondary references, Lacey, Dollman and Coultaus, are directed to spring-loaded bolts or latches wherein the loop is used to pull the bolt or latch to the open or unlocked position against the bias of a spring which urges the bolt or latch to the locked position and that this in contrast to appellant's claimed invention and the latch mechanisms of Recchione and Finch, which are springless and are designed to be manually moved from a closed position to an open position and vice versa. Nevertheless, the differences between a springless and a spring-loaded latch mechanism are not of such a nature that one of ordinary skill in the art would have been dissuaded from providing on the springless latch mechanism of either Recchione or Finch an enlarged loop disposed through a hole in the spring bolt,

as taught by any of Lacey, Dollman and Coultaus, to obtain the self-evident advantage of a vehicle for applying a pulling force to the latch, as discussed above. We thus conclude that the teachings of any of Lacey, Dollman and Coultaus would have provided ample suggestion to modify the latch mechanism of either Recchione or Finch to provide a pulling loop through a hole in the slide bolt thereof as proposed by the examiner. It follows that we shall sustain the examiner's rejections of claim 9, as well as claims 10 and 11 which stand or fall therewith.

CONCLUSION

To summarize, the decision of the examiner to reject claims 9-11 under 35 U.S.C. § 103 is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a).

AFFIRMED

JOHN P. MCQUADE
Administrative Patent Judge

JEFFREY V. NASE
Administrative Patent Judge

JENNIFER D. BAHR
Administrative Patent Judge

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